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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 637,403	08 11 2000	Aldo M. Pitt	0046 2001-000	7297

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

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DATE MAILED: 02 19 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/637,403

Applicant(s)
Pitt et al.

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-49 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-33, drawn to a separator including: a centrifuge, a plurality of filtering wells, and an angling mechanism, classified in class 210, subclass 256.
- II. Claims 34-37 and 46-49, drawn to a method for purifying a fluid, classified in class 210, subclass 650.
- III. Claims 41-45, drawn to a filtering device, classified in class 210, subclass 323.1.

Applicant should note that claims 38-40 have not been included in any of the groups above because it is not clear whether these claims require the presence of a centrifuge (see claim 38, last 2 lines). If claims 38-40 are intended to include a centrifuge, then they will be placed in Group I, above. If these claims do not include a centrifuge, then they will be placed in Group III, above. Clarification is required.

The above noted inventions are independent and/or distinct from one another for the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the

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apparatus as claimed can be used to practice another and materially different process (MPEP § 806.05(e)). In this case the apparatus of Group I could be used in another process, different from that of Group II. For example, this device could be used to separate solids having different particle sizes from one another.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination of Group I does not require the particulars of the subcombination of Group III, because the separator of Group I does not require the specific angling mechanism of group III (i.e. capable of setting the angle of one or more membranes relative to the plane of the plate), since claim 1 merely recites an angling mechanism which adjusts the angle of the plate, thereby adjusting the angle of all of the membranes together. The subcombination has separate utility such as in a separator which does not include a centrifuge.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by

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their different classification and divergent subject matter, and because the searches for the individual Groups are not coextensive, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143); and must also indicate whether or not claims 38-40 include a centrifuge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.


Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
February 17, 2002